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Straub & Pokotylo 788 Shrewsbury Avenue Tinton Falls, NJ 07724			SANDERS, AARON J	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/732,824	Applicant(s) BRONSON ET AL.	
	Examiner AARON SANDERS	Art Unit 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed 8 January 2009 has been entered. Claims 1-5 and 7-40 are pending. Claims 1, 4-5, 7, 9, 11-12, and 29-36 are currently amended. No claims are new. Claim 6 is cancelled. This action is FINAL, as necessitated by amendment.

Claim Objections

As per claim 1, the first recitation of “the first entity” should be “a first entity,” and the second recitation should be “the first entity.”

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 9-11, and 17-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholas et al., U.S. 2004/0054589 (“Nicholas”), in view of Hamel, U.S. 2002/0007393 (“Hamel”).

1. Nicholas teaches “*A computer-implemented method comprising,*” see Abstract, “A telecommunication system implements a method for providing a targeted online advertisement to a user accessing a content provider node of the system.”

Nicholas teaches “*determining, using a computer system including at least one computer, whether or not a condition is met,*” see Figs. 1, 25, and par. 103, “Based on the

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demographic determination, ad selection node 140 checks for an ad based on the demographic information during a stage S420 of the flowchart 410. During a stage S422 of the flowchart 400, a search of the targeted add within an inventory of ad selection node 140 is accomplished,” where the claimed “condition” is the referenced check “for an ad based on the demographic information.” Nicholas further teaches “*responsive to an ad request associated with a target document, wherein the target document is associated with a resource for rendering content,*” see Figs. 1, 25, and par. 102, “User accesses a website on the Internet by making a network request to content provider node 130 during a stage S412 of the flowchart 410. This may be achieved using a personal computer 123 (FIG. 1) and entering a universal resource locator (URL) in a standard browser... This code requests an ad from an ad selection node 140 found at the network address,” where the claimed “target document” is the referenced “website.” Nicholas does not teach “*and wherein the condition depends, at least in part, on whether the target document is available for analysis by the first entity.*” Hamel does, however, see Fig. 3 and par. 83, “During step 315 proxy 158 examines the parameters of the ad proposed by the Ad Server 160 to determine if they are compatible with the capabilities of applet 132’. If the ad is otherwise compatible with the applet’s capabilities, it is passed on through at step 320, where it is then sent by proxy 158 during step 325 to the applet 132’,” where, the website and embedded applet must be “available for analysis” in order to determine the “condition” (i.e. the referenced determination of whether the ad can be displayed). Thus, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of the cited references because Hamel’s teachings would have allowed Nicholas’ method to adjust ad content to the capabilities of the

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displaying page, see Hamel par. 86. Nicholas teaches “*to determine if an ad relevant to the content of the target document is available for rendering, and if not, determining that the condition is not met,*” see Fig. 25 and par. 103, “Based on the demographic determination, ad selection node 140 checks for an ad based on the demographic information during a stage S420 of the flowchart 410... If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410.”

Nicholas teaches “*if it is determined that the condition is met, a first entity providing a set of at least one ad to be rendered via the resource,*” see Figs. 1, 25, and par. 103, “If an appropriate targeted ad exists in the inventory for ad selection node 140, the ad may be served during a stage S424 of the flowchart 410,” where the claimed “first entity” is the referenced “ad selection node 140.”

Nicholas teaches “*and if it is determined that the condition is not met, the first entity indicating the availability of at least a portion of the resource to a second entity,*” see Figs. 1, 25, and par. 103, “If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410,” where the claimed “indicating” is the referenced “forward[ing]” and the claimed “second entity” is the referenced “default service.”

2. Nicholas teaches “*The computer-implemented method of claim 1, wherein the first entity includes a content ad system,*” see Fig. 1 and par. 47, “ad selection node 140 includes a targeted ad server 141a and an associated database DB4... for managing a

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selection of which advertisement or advertisements are to be communicated with the requested information from content provider node 131 to user node 120.”

3. Nicholas teaches “*The computer-implemented method of claim 2, wherein the second entity includes a publisher with which the target document is associated,*” see par. 104, “Again, an iframe may be used to provide content from a different server, service, or different page on the same server. In this example code, the default ad service is a TPAS.”

4. Nicholas teaches “*The computer-implemented method of claim 3, wherein the ad request associated with a target document is made by the publisher,*” see Fig. 25 and par. 102, “In the content received from content provider node 130 is code that represents a request for a banner ad during a stage S414 of the flowchart 410.”

Nicholas teaches “*wherein the publisher requests the ad from the first entity,*” see Fig. 25 and par. 102, “In the content received from content provider node 130 is code that represents a request for a banner ad during a stage S414 of the flowchart 410.”

Nicholas teaches “*and wherein the act of determining whether the condition is met is performed by the first entity,*” see Fig. 25, and par. 103, “If an appropriate targeted ad exists in the inventory for ad selection node 140, the ad may be served during a stage S424 of the flowchart 410.”

5. Nicholas does not explicitly teach “*The computer-implemented method of claim 4, wherein the condition depends, at least in part, on whether the first entity determines the target document can be crawled, and if not, determining that the condition is not met.*” Hamel does, however, see Fig. 3 and par. 83, “During step 315 proxy 158 examines the parameters of the ad proposed by the Ad Server 160 to determine if they are

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compatible with the capabilities of applet 132',” where, the website and embedded applet must be crawlable in order to determine the “condition.” Thus, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of the cited references because Hamel’s teachings would have allowed Nicholas’ method to adjust ad content to the capabilities of the displaying page, see Hamel par. 86.

9. Nicholas teaches “*The computer-implemented method of claim 4, wherein the condition depends, at least in part, on whether the first entity determines if a threshold number of sufficiently relevant ads are available to render in association with the target document, and if not, determining that the condition is not met,*” see par. 126, “the push and/or pull may be performed based on a threshold number of advertisement impressions served by the content site.”

10. Nicholas teaches “*The computer-implemented method of claim 9, wherein the threshold number of sufficiently relevant ads depends on a degree of topical correlation between a plurality of ads available to the first entity and subject matter of the target document,*” see par. 126, “the push and/or pull may be performed based on a threshold number of advertisement impressions served by the content site. The advantage achieved by pushing information relating to the availability of ads for a particular content site, geographic, and demographic closer to the content site is that it allows targeted ad server to handle requests that result in a higher percentage of targeted advertisements served.”

11. Nicholas teaches “*The computer-implemented method of claim 4, wherein the condition depends, at least in part, on whether the first entity determines if a threshold number of ads are available to render in association with the target document, and if not,*

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determining that the condition is not met,” see par. 61, “A standard method for defining the quantity and/or duration of a network advertisement is to specify a number of impressions, or the number of times the advertisement will be delivered.”

17. Nicholas teaches “*The computer-implemented method of claim 1, wherein the first entity includes a first ad system,*” see Fig. 1 and par. 47, “ad selection node 140 includes a targeted ad server 141a and an associated database DB4... for managing a selection of which advertisement or advertisements are to be communicated with the requested information from content provider node 131 to user node 120.”

18. Nicholas teaches “*The computer-implemented method of claim 17, wherein the first ad system is a content ad system,*” see Fig. 1 and par. 47, “ad selection node 140 includes a targeted ad server 141a and an associated database DB4... for managing a selection of which advertisement or advertisements are to be communicated with the requested information from content provider node 131 to user node 120.”

19. Nicholas teaches “*The computer-implemented method of claim 17, wherein the content includes a set of one or more ads,*” see Fig. 1 and par. 47, “ad selection node 140 includes a targeted ad server 141a and an associated database DB4... for managing a selection of which advertisement or advertisements are to be communicated with the requested information from content provider node 131 to user node 120.”

20. Nicholas teaches “*The computer-implemented method of claim 1, wherein the ad request associated with the target document is received by the first entity,*” see Fig. 25 and par. 102, “In the content received from content provider node 130 is code that represents a request for a banner ad during a stage S414 of the flowchart 410.”

Nicholas teaches “*wherein the target document is requested by a client system and the ad request includes an identifier of the second entity,*” see Fig. 25 and par. 102, “User accesses a website on the Internet by making a network request to content provider node 130 during a stage S412 of the flowchart 410. This may be achieved using a personal computer 123 (FIG. 1) and entering a universal resource locator (URL) in a standard browser.”

Nicholas teaches “*wherein the first entity determines to redirect the request to the second entity based on a set of one or more criteria,*” see Fig. 25 and par. 103, “If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410.”

Nicholas teaches “*and wherein the act of indicating the availability of the resource includes the first entity setting a location field in an outgoing hypertext protocol header with the identifier, causing the target document to be output to the client system with the content rendered by the second entity,*” see par. 103, “<iframe height=60 src='http://adstpas.net/adservice.html' width=468 frameborder=0 marginwidth=0 marginheight=0 hspace=0 vspace=0 scrolling='no' bordercolor='#000000'></iframe>.”

21. Nicholas teaches “*The computer-implemented method of claim 20, wherein the identifier includes an alternative content URL,*” see par. 104, “Again, an iframe may be used to provide content from a different server, service, or different page on the same server. In this example code, the default ad service is a TPAS accessed via network address <http://ads.tpas.net/adservice.html>.”

22. Nicholas teaches “*The computer-implemented method of claim 20, further comprising using remote scripting to process the ad rendering request,*” see par. 59, “Similar client and/or server-side scripting may be employed throughout the advertisement definition process, and throughout any portion of the user interface employed in interaction with ad selection node 140.”

23. Nicholas teaches “*The computer-implemented method of claim 21, wherein the remote scripting includes an iframe,*” see par. 104, “Again, an iframe may be used to provide content from a different server, service, or different page on the same server.”

24. Nicholas teaches “*The computer-implemented method of claim 23, wherein the iframe is named to identify the ad rendering request to the first entity,*” see par. 104, “Again, an iframe may be used to provide content from a different server, service, or different page on the same server.”

25. Nicholas teaches “*The computer-implemented method of claim 1, wherein if it is determined that the condition is not met, the first entity indicating to an external entity that the condition is not met,*” see Fig. 25 and par. 103, “If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410.”

26. Nicholas teaches “*The computer-implemented method of claim 25, further comprising identifying, by the first entity, the condition to the external entity,*” see Fig. 25 and par. 103, “If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410.”

27. Nicholas teaches “*The computer-implemented method of claim 26, wherein the external entity is the second entity,*” see Fig. 25 and par. 103, “If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410.”

28. Nicholas teaches “*The computer-implemented method of claim 26, wherein the external entity includes a publisher,*” see par. 104, “Again, an iframe may be used to provide content from a different server, service, or different page on the same server. In this example code, the default ad service is a TPAS.”

29. Nicholas teaches “*In a content-relevant ad serving system, a computer-implemented method for handling ad rendering requests comprising,*” see Abstract, “A telecommunication system implements a method for providing a targeted online advertisement to a user accessing a content provider node of the system.”

Nicholas teaches “*receiving, by the content-relevant ad serving system, a request to provide content to be rendered in conjunction with a target document,*” see Figs. 1, 25, and par. 102-103, “User accesses a website on the Internet by making a network request to content provider node 130 during a stage S412 of the flowchart 410... This code requests an ad from an ad selection node 140 found at the network address,” where the claimed “ad system” is the referenced “ad selection node 140” and the claimed “target document” is the referenced “website.”

Nicholas teaches “*determining, by the content-relevant ad serving system, based on a set of one or more conditions,*” see Figs. 1, 25, and par. 103, “Based on the demographic determination, ad selection node 140 checks for an ad based on the

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demographic information during a stage S420 of the flowchart 410. During a stage S422 of the flowchart 400, a search of the targeted add within an inventory of ad selection node 140 is accomplished,” where the claimed “condition” is the referenced check “for an ad based on the demographic information.” Nicholas further teaches “*whether to provide at least one ad responsive to the request*,” see Figs. 1, 25, and par. 103, “If an appropriate targeted ad exists in the inventory for ad selection node 140, the ad may be served during a stage S424 of the flowchart 410.” Nicholas also teaches “*and if not, redirecting the request to an alternative entity*,” see Figs. 1, 25, and par. 103, “If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410,” where the claimed “redirecting” is the referenced “forward[ing]” and the claimed “alternative entity” is the referenced “default service.”

Nicholas does not teach “*wherein the set of one or more conditions depends, at least in part, on whether the target document is available for analysis by the content-relevant ad serving system*.” Hamel does, however, see Fig. 3 and par. 83, “During step 315 proxy 158 examines the parameters of the ad proposed by the Ad Server 160 to determine if they are compatible with the capabilities of applet 132’. If the ad is otherwise compatible with the applet’s capabilities, it is passed on through at step 320, where it is then sent by proxy 158 during step 325 to the applet 132’,” where, the website and embedded applet must be “available for analysis” in order to determine the “condition” (i.e. the referenced determination of whether the ad can be displayed). Thus, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of the cited references because Hamel’s teachings

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would have allowed Nicholas' method to adjust ad content to the capabilities of the displaying page, see Hamel par. 86. Nicholas teaches "*to determine if an ad relevant to the content of the target document is available for rendering, and if not, determining that the set of one or more condition is not met,*" see Fig. 25 and par. 103, "Based on the demographic determination, ad selection node 140 checks for an ad based on the demographic information during a stage S420 of the flowchart 410... If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410."

30. Nicholas teaches "*The computer-implemented method of claim 29, wherein the request identifies the alternative entity,*" see par. 103, "<iframe height=60 src='http://adstpas.net/adservice.html' width=468 frameborder=0 marginwidth=0 marginheight=0 hspace=0 vspace=0 scrolling='no' bordercolor='#000000'></iframe>."

31. Nicholas teaches "*The computer-implemented method of claim 29, wherein redirecting the request includes an identifier to identify the request if redirected from the alternative entity back to the ad system,*" see par. 104, "Again, an iframe may be used to provide content from a different server, service, or different page on the same server. In this example code, the default ad service is a TPAS accessed via network address http://ads.tpas.net/adservice.html."

32. Nicholas teaches "*The computer-implemented method of claim 29, wherein redirecting the request is based on determining that a threshold number of relevant ads are not available for rendering in conjunction with the target document,*" see par. 126,

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“the push and/or pull may be performed based on a threshold number of advertisement impressions served by the content site.”

33. Nicholas teaches “*The computer-implemented method of claim 29, wherein redirecting the request is based on determining that a threshold amount of monetary gain will not be met if the one or more ads are rendered by the ad system,*” see par. 87, “Publication details page 320 may provide the administrator with information relating to the advertisers, publications or media companies having access to ad selection node 140. This information may include contract information such as the determined revenue split, cost per thousand impressions (CPM), and beginning and end dates.”

34. Nicholas teaches “*The computer-implemented method of claim 29, wherein redirecting the request is based on determining that a threshold ad performance level will not be met if the one or more ads are rendered by the ad system,*” see par. 87, “Publication details page 320 may provide the administrator with information relating to the advertisers, publications or media companies having access to ad selection node 140. This information may include contract information such as the determined revenue split, cost per thousand impressions (CPM), and beginning and end dates.”

35. Nicholas teaches “*The computer-implemented method of claim 34, wherein the threshold ad performance level depends at least in part on an expected clickthrough rate of the one or more ads if rendered by the ad system,*” see par. 87, “This information may include contract information such as the determined revenue split, cost per thousand impressions (CPM), and beginning and end dates.”

36. Nicholas teaches “*A system comprising,*” see Abstract, “A telecommunication system implements a method for providing a targeted online advertisement to a user accessing a content provider node of the system.”

Nicholas teaches “*at least one processor,*” see Fig. 1 and par. 47, “Referring again to FIG. 1, ad selection node 140 includes one or more servers 141 for conventionally communicating with the other nodes of telecommunication system 10.”

Nicholas teaches “*at least one communication interface,*” see Fig. 1 and par. 43, “Telecommunication system 100 comprises a network 110 which is the media used to provide communications links between the various nodes of telecommunication system 100.”

Nicholas teaches “*and at least one storage device, the storage device storing program instructions which, when executed by the at least one processor, performs a method including,*” see Fig. 1 and par. 47, “Referring again to FIG. 1, ad selection node 140 includes one or more servers 141 for conventionally communicating with the other nodes of telecommunication system 10.”

Nicholas teaches “*rendering an ad, by a first means, via a resource of a target document wherein the target document includes content,*” see Figs. 1, 25, and par. 102, “User accesses a website on the Internet by making a network request to content provider node 130 during a stage S412 of the flowchart 410. This may be achieved using a personal computer 123 (FIG. 1) and entering a universal resource locator (URL) in a standard browser... This code requests an ad from an ad selection node 140 found at the network address,” where the claimed “target document” is the referenced “website.”

Nicholas teaches “*and determining, by a second means and based on a set of one or more criteria, whether or not to have the first means render the ad via the resource of the target document,*” see Figs. 1, 25, and par. 103, “Based on the demographic determination, ad selection node 140 checks for an ad based on the demographic information during a stage S420 of the flowchart 410... If an appropriate targeted ad exists in the inventory for ad selection node 140, the ad may be served during a stage S424 of the flowchart 410,” where the claimed “criteria” is the referenced check “for an ad based on the demographic information.”

Nicholas teaches “*wherein if the second means determines that the first means will not render the ad, indicating the availability of at least a portion of the resource to an alternative means to render alternative content via at least a portion of the resource,*” see Figs. 1, 25, and par. 103, “If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410,” where the claimed “indicating” is the referenced “forward[ing]” and the claimed “alternative means” is the referenced “default service.”

Nicholas does not teach “*wherein the set of one or more criteria depends, at least in part, on whether the target document is available for analysis by the first means.*”

Hamel does, however, see Fig. 3 and par. 83, “During step 315 proxy 158 examines the parameters of the ad proposed by the Ad Server 160 to determine if they are compatible with the capabilities of applet 132’. If the ad is otherwise compatible with the applet’s capabilities, it is passed on through at step 320, where it is then sent by proxy 158 during step 325 to the applet 132’,” where, the website and embedded applet must be “available

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for analysis” in order to determine the “condition” (i.e. the referenced determination of whether the ad can be displayed). Thus, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of the cited references because Hamel’s teachings would have allowed Nicholas’ method to adjust ad content to the capabilities of the displaying page, see Hamel par. 86. Nicholas teaches *“to determine if an ad relevant to the content of the target document is available for rendering, and if not, determining that the set of one or more criteria is not met,”* see Fig. 25 and par. 103, “Based on the demographic determination, ad selection node 140 checks for an ad based on the demographic information during a stage S420 of the flowchart 410... If an appropriate targeted ad does not exist in the inventory, ad selection node 140 may forward the request for an ad to a default service from content provider node 130 during a stage S426 of the flowchart 410.”

37. Nicholas teaches *“The system of claim 36, wherein the resource includes a display area on the target document,”* see par. 102, “User accesses a website on the Internet by making a network request to content provider node 130 during a stage S412 of the flowchart 410. This may be achieved using a personal computer 123 (FIG. 1) and entering a universal resource locator (URL) in a standard browser.”

38. Nicholas teaches *“The system of claim 36, wherein the set of criteria includes an expected performance for rendering the ad via the resource of the target document,”* see par. 87, “Publication details page 320 may provide the administrator with information relating to the advertisers, publications or media companies having access to ad selection node 140. This information may include contract information such as the determined revenue split, cost per thousand impressions (CPM), and beginning and end dates.”

39. Nicholas teaches “*The method of claim 29, wherein the alternative entity includes one of (A) another ad system or (B) a publisher with which the target document is associated,*” see Fig. 1 and par. 47, “ad selection node 140 includes a targeted ad server 141a and an associated database DB4... for managing a selection of which advertisement or advertisements are to be communicated with the requested information from content provider node 131 to user node 120.”

40. Nicholas teaches “*The system of claim 36, wherein the first means and second means are included in an ad system, and wherein the alternative means is included in one of (A) another ad system or (B) a publisher with which the target document is associated,*” see Fig. 1 and par. 47, “ad selection node 140 includes a targeted ad server 141a and an associated database DB4... for managing a selection of which advertisement or advertisements are to be communicated with the requested information from content provider node 131 to user node 120.”

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholas et al., U.S. 2004/0054589 (“Nicholas”), in view of Hamel, U.S. 2002/0007393 (“Hamel”), and in view of Barry et al., U.S. 2004/0019523 (“Barry”).

7. Nicholas does not teach “*The computer-implemented method of claim 4, wherein the condition depends, at least in part, on whether the target document contains negative subject matter, and if so, determining that the condition is not met.*” Barry does, however, see par. 11, “By specifying one or more of those mask values, the advertising distribution partner may indicate that they do not wish to receive any advertisements that relate to any type of a vice (e.g., smoking, drinking, gambling, sex, etc.), adult or sexual

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advertisements, gambling, non-FDA drugs, or ads relating to psychics, respectively.”

Thus, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of the cited references because Barry’s teachings would have allowed Nicholas’ method to prevent displaying advertisements on inappropriate websites, see Barry par. 3.

8. Nicholas does not teach “*The computer-implemented method of claim 7, wherein negative subject matter includes at least one of tragic events, pornography, alcohol promotion, tobacco promotion, gun promotion and gambling promotion.*” Barry does, however, see par. 11, “By specifying one or more of those mask values, the advertising distribution partner may indicate that they do not wish to receive any advertisements that relate to any type of a vice (e.g., smoking, drinking, gambling, sex, etc.), adult or sexual advertisements, gambling, non-FDA drugs, or ads relating to psychics, respectively.” Thus, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of the cited references because Barry’s teachings would have allowed Nicholas’ method to prevent displaying advertisements on inappropriate websites, see Barry par. 3.

Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholas et al., U.S. 2004/0054589 (“Nicholas”), in view of Hamel, U.S. 2002/0007393 (“Hamel”), and in view of Roy et al., U.S. 2003/0220918 (“Roy”).

12. Nicholas does not teach “*The computer-implemented method of claim 4, wherein the condition depends, at least in part, on whether the first entity determines that net revenue for the first entity for rendering the ad will be positive.*” Roy does, however,

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see par. 12, “Each advertiser decides how much money he wants to spend on a search term, and the search provider displays the advertisers’ listings in proportion to the amount of money the respective advertisers spend,” where, in order to display an advertisement, the search provider must determine whether the revenue will be positive. Thus, it would have been obvious to one of ordinary skill in the database art at the time of the invention to combine the teachings of the cited references because Roy’s teachings would have allowed Nicholas’ method to sort advertisements based on revenue, see Roy par. 3.

13. Nicholas teaches “*The computer-implemented method of claim 12, wherein the act of determining whether net revenue for rendering the ad will be positive, by the first entity, comprises: determining whether or not a payment is to be paid to a publisher for rendering the ad,*” see par. 150, “an advertisement may not be sold into a primary area by a publication, media company, or advertiser that does not hold the primary status in that area.”

Nicholas teaches “*and estimating gross revenue derived from an advertiser for rendering the ad in association with the target document,*” see par. 150, “a database and software solution may automatically calculate any charges or credits relating to primary and secondary status. The database and software solution may automatically generate billing statements for advertisers, publications and media companies registered with ad selection node 140.”

14. Nicholas teaches “*The computer-implemented method of claim 13, wherein the payment depends on a number of impressions of the ad using the resource of the target document,*” see par. 150, “the revenue earned may vary based upon advertisement

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type, the location into which the advertisement is served, and the advertiser, publication or media company that sold the advertisement.”

15. Nicholas teaches “*The computer-implemented method of claim 13, wherein the gross revenue depends on a number of impressions of the ad using the resource of the target document,*” see par. 87, “This information may include contract information such as the determined revenue split, cost per thousand impressions (CPM), and beginning and end dates.”

16. Nicholas teaches “*The computer-implemented method of claim 13, wherein the gross revenue depends on an estimated clickthrough amount for the ad if rendered using the resource of the target document,*” see par. 87, “This information may include contract information such as the determined revenue split, cost per thousand impressions (CPM), and beginning and end dates.”

Response to Arguments

Applicant’s arguments with respect to the 35 U.S.C. 103 rejections of claims 1-5 and 7-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Sanders whose telephone number is 571-270-1016. The examiner can normally be reached on M-F 9:00a-4:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tim T. Vo/
Supervisory Patent Examiner, Art Unit
2168

/Aaron Sanders/
Examiner, Art Unit 2168
20 March 2009